

## Michigan Coalition to End Domestic & Sexual Violence

### Domestic Violence and Joint Custody

- Joint custody already receives special and preferential consideration under Michigan law, which requires courts to inform the parties of the availability of joint custody, consider awarding joint custody if either party requests it, and state the reasons on the record if joint custody is not awarded.
- Most custody cases are resolved by the parties coming to an agreement. Since Michigan law directs judges to enter such agreements as the final custody order, unless the court finds by clear and convincing evidence that the agreement is not in the “best interest of the child”, this presumption would most directly impact those cases where the parties cannot agree. A large majority of these cases involve domestic violence.
- Research and experience indicates that for joint custody arrangements to be successful for children, parties must be highly motivated and committed to co-parenting in different households. Cooperation, compromise, communication and safety are all necessary components to a successful joint custody arrangement. These components are not present in every situation, and certainly do not exist where one party has a history of abuse against the other. Joint custody should be an option if both parents support it and if they are capable of cooperation; it should have no presumptive superiority, and it should be disallowed if the parents’ relationship is chronically conflictual or if one parent has abused the other.
- Joint custody places a great burden on some children. Joint custody often requires a child to move back and forth continuously. Even in the best of situations, with highly committed and cooperative parents, the child must live in two households and neighborhoods, in essence having two lives. Some children simply do not have the capacity to thrive under these circumstances.
- Joint custody does not improve parental cooperation in high conflict cases. It has been well documented that joint custody actually increases conflict in these situations, resulting in greater trauma and harm to the child.
- Unfortunately, pursuing joint custody is not always done out of a desire to spend time with the child. In domestic violence situations, abusers frequently use joint custody to prevent the victim from leaving, as many victims will stay rather than risk the child living alone with the abuser. In cases where the victim does leave, gaining joint custody allows the batterer continued legal access to control and abuse both the adult and child victims. A presumption of joint custody will only make these tactics easier and more effective.



- Joint custody requests are also made as a means to avoid (or lessen) payment of child support. This often results in decreased resources for the children, particularly in the many joint custody cases where one parent becomes the primary caretaker and shoulders the majority of the expenses, despite the court order presuming expenses will also be shared.
- Joint custody is more expensive for everyone, as it presupposes the maintenance of two households with sufficient room and necessities for the children. It creates particular hardships for low-income families, especially for TANF recipients, as TANF requires a parent to have custody the majority of the time in order to be eligible for many benefits.



**Joint custody is not right for every family. This “one size fits all” approach to resolving the often difficult issue of child custody disputes will not serve the interests of Michigan’s children. Furthermore, it will put child and adult victims of domestic violence at even greater risk for harm.**

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